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Karl F. Milde, Jr.
Milde, Hoffberg & Macklin, LLP
10 Bank Street
Suite 460
White Plains, NY 10606

In re Application of :
Martin Rahe :
Application No: 09/936,571 :
PCT Application No.: PCT/DE00/00334 :
International Filing Date: 03 February 2000 :
Priority Date: 04 February 1999 :
Attorney Docket No.: HBC 232-KFM :
For: DEVICE FOR RECEIVING AND :
CONTROLLING VOIDED URINE :

DECISION ON
PETITION
UNDER 37 CFR 1.137(b)

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office on 14 September 01 is **GRANTED**.

BACKGROUND

On 03 February 2000, applicant filed an international application, No. PCT/DE00/00334 which claimed the priority of an earlier German application filed on 03 February 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 August 2000.

On 04 September 2000, a Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of the nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 August 2001.

On 14 September 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a petition to revive the international application; the requisite petition fee; the requisite basic national fee as required by 35 U.S.C. §371(c)(1); an English translation of the international application as required by 35 U.S.C. §371(c)(2), and a declaration as required by 35 U.S.C. §371(c)(4).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) by a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate basic national fee of \$430 and petition fee of \$620 have been submitted. A terminal disclosure is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The \$65.00 surcharge for filing the oath or declaration and the \$130.00 processing fee for filing the English translation of the international application later than 30 months from the priority date as required by 37 CFR 1.492(e) and (f) will be charged to counsel's Deposit Account No. 50-0427 as authorized in the transmittal letter filed 14 September 2001.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. §371(d) is **GRANTED** as to the National Stage in the United States of America. Applicant's claim for priority is acknowledged. The application has an international filing date of 03 February 2000 under 35 U.S.C. §363 and a date of **14 September 2001** under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.



Erin M. Pender
Attorney Advisor
PCT Legal Office



Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 305-8819
Facsimile: (703) 308-6459